

AMENDED IN SENATE APRIL 25, 2001  
AMENDED IN SENATE APRIL 16, 2001  
AMENDED IN SENATE MARCH 15, 2001  
AMENDED IN SENATE FEBRUARY 13, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 8**

**Introduced by Senator Alarcon**  
**(Coauthors: Senators Escutia, Soto, and Vincent)**  
(Coauthors: Assembly Members Firebaugh, Koretz, and Washington)

January 18, 2001

An act to amend ~~Sections 366 and 9601 of~~ *Section 366 of, and to amend, repeal, and add Section 9601 of*, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 8, as amended, Alarcon. Electric power: retail sales.

(1) ~~Existing law~~ *The Public Utilities Act* requires the Public Utilities Commission to take necessary action to facilitate direct transactions between electricity suppliers and end-use customers. ~~Existing law~~ *The act* requires the commission to authorize all customer classes to voluntarily aggregate their electrical loads. ~~Existing law~~ *The act* requires a public agency that seeks to serve as a community aggregator on behalf of residential customers to offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

This bill would permit a public agency that seeks to serve as a community aggregator for direct access customers to provide

aggregation service to all of the customers within its jurisdiction after a majority vote of its elected governing body. If a customer of the public agency desires to receive service from a different service provider, ~~it may~~ *the bill would authorize it* do so upon written notice to the public agency and pursuant to the opt out rules established by the public agency.

(2) Existing law prohibits a local publicly owned electric utility or electrical corporation from selling electric power to the retail customers of another local publicly owned electric utility or electrical corporation unless the first utility has agreed to let the second utility make sales of electric power to the retail customers of the first utility.

This bill would exempt from that prohibition a local publicly owned electric utility that proposes to sell electric power to the current retail customers of an electrical corporation if certain criteria are satisfied.

*The bill would provide that the provisions described in (2) would remain in effect for 18 months from the date of enactment of this bill. After 18 months from the date of enactment of this bill, the bill would prohibit a local publicly owned electric utility or electrical corporation from selling electric power to the retail customers of another local publicly owned electric utility or electrical corporation unless the regulatory body of the first utility has agreed to let the second utility make sales of electric power to the retail customers of the first utility.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*

3 (a) *The multifaceted energy crisis that has California in its*  
4 *grasp, needs multifaceted solutions. Many efforts are being made*  
5 *to reduce the demand on the energy grid and ensure the people of*  
6 *California a stable, reasonably priced supply of energy in as timely*  
7 *a manner as possible, including efforts to increase public power*  
8 *in California.*

9 (b) *One of the key factors making resolution of the energy crisis*  
10 *more burdensome is the lack of control by Californians over*  
11 *various aspects of energy pricing and supply. One way to increase*  
12 *control is to increase access to public power in California.*

1     (c) During this energy crisis, the electrical corporations have  
2     not been in a position to provide a stable, reasonably priced supply  
3     of energy to all of the customers in their service territory.

4     (d) Where a local publicly owned utility may be available to  
5     provide retail sale of energy to customers in the service territory  
6     of an electrical corporation, and the customers of that electrical  
7     corporation choose to contract with the local publicly owned  
8     utility for their energy supply, they should be permitted to do so in  
9     as expeditious a manner as possible.

10    (e) Therefore, for a period of 18 months, the requirement that  
11    the agreement of an electrical corporation that is currently serving  
12    customers be obtained before those customers can contract with a  
13    local publicly owned utility for retail sale of energy should be  
14    waived.

15    SEC. 2. Section 366 of the Public Utilities Code is amended  
16    to read:

17    366. (a) The commission shall take actions as needed to  
18    facilitate direct transactions between electricity suppliers and end  
19    use customers. Customers shall be entitled to aggregate their  
20    electric loads on a voluntary basis, provided that each customer  
21    does so by a positive written declaration. If no positive declaration  
22    is made by a customer, that customer shall continue to be served  
23    by the existing electrical corporation or its successor in interest.

24    (b) Aggregation of customer electrical load shall be authorized  
25    by the commission for all customer classes, including, but not  
26    limited to, small commercial or residential customers.  
27    Aggregation may be accomplished by private market aggregators,  
28    cities, counties, special districts or on any other basis made  
29    available by market opportunities and agreeable by positive  
30    written declaration by individual consumers.

31    (c) Notwithstanding any other provision of law, including, but  
32    not limited to, this chapter, a public agency that seeks to serve as  
33    a community aggregator for direct access customers of the  
34    electrical corporation may, after a majority vote of its elected  
35    governing body, provide aggregation service to all of the  
36    customers within its jurisdiction. If a customer of the public  
37    agency desires to receive service from a different service provider  
38    it may do so upon written notice to the public agency and pursuant  
39    to the opt-out rules established by the public agency. Chapter 3  
40    (commencing with Section 56100) of Part 1 of Division 3 of the

1 Government Code does not apply to aggregation service provided  
2 by a public agency under this section.

3 ~~SEC. 2.~~

4 *SEC. 3.* Section 9601 of the Public Utilities Code is amended  
5 to read:

6 9601. (a) Except with respect to supply options of the nature  
7 specified in Section 218, with the exception of paragraph (3) of  
8 subdivision (b) of that section, as it existed on December 20, 1995,  
9 no person, corporation, electrical corporation, or local publicly  
10 owned electric utility or other governmental entity other than a  
11 retail customer's existing electric service provider as of December  
12 20, 1995, shall provide partial or full electric service to a retail  
13 customer of a local publicly owned electric utility unless the  
14 customer first confirms in writing an obligation to pay, through  
15 tariff or otherwise, to the utility currently providing electric  
16 service, a nonbypassable generation-related severance fee or  
17 transition charge established by the regulatory body for that utility.  
18 The severance fee or transition charge shall be paid directly to the  
19 local publicly owned electric utility providing electricity service  
20 in the service area in which the consumer is located.

21 (b) Except as provided in subdivision (a) of Section 374, no  
22 local publicly owned electric utility or other governmental entity  
23 shall provide partial or full electric service to a retail customer of  
24 an electrical corporation unless the customer of that electrical  
25 corporation first confirms in writing an obligation to pay, through  
26 tariff or otherwise, to the electrical corporation currently  
27 providing electric service, a nonbypassable generation-related  
28 transition charge established by the regulatory body for that  
29 electrical corporation. The charge shall be paid directly to the  
30 electrical corporation providing electricity in the service area in  
31 which the consumer is located.

32 (c) (1) Except as specified in paragraph (2), no local publicly  
33 owned electric utility or electrical corporation shall sell electric  
34 power to the retail customers of another local publicly owned  
35 electric utility or electrical corporation unless the first utility has  
36 agreed to let the second utility make sales of electric power to the  
37 retail customers of the first utility.

38 (2) Paragraph (1) does not apply to a local publicly owned  
39 electric utility that proposes to sell electric power to the current

1 retail customers of an electrical corporation, if both of the  
2 following criteria are satisfied:

3 (A) The retail customers in the service area of the electrical  
4 corporation agree to switch to the local publicly owned electric  
5 utility.

6 (B) The local publicly owned electric utility that proposes to  
7 sell electric power to the retail customers of an electrical  
8 corporation provides low-income public benefit programs that  
9 provide benefits that are equal to or greater than those provided by  
10 the electrical corporation.

11 *(d) This section shall remain in effect for 18 months after the*  
12 *effective date of the act amending this section, and as of that date*  
13 *is repealed.*

14 SEC. 4. Section 9601 is added to the Public Utilities Code, to  
15 read:

16 9601. (a) *Except with respect to supply options of the nature*  
17 *specified in Section 218, with the exception of paragraph (3) of*  
18 *subdivision (b) of that section, as it existed on December 20, 1995,*  
19 *no person, corporation, electrical corporation, or local publicly*  
20 *owned electric utility or other governmental entity other than a*  
21 *retail customer's existing electric service provider as of December*  
22 *20, 1995, shall provide partial or full electric service to a retail*  
23 *customer of a local publicly owned electric utility unless the*  
24 *customer first confirms in writing an obligation to pay, through*  
25 *tariff or otherwise, to the utility currently providing electric*  
26 *service, a nonbypassable generation-related severance fee or*  
27 *transition charge established by the regulatory body for that*  
28 *utility. The severance fee or transition charge shall be paid directly*  
29 *to the local publicly owned utility providing electricity service in*  
30 *the service area in which the consumer is located.*

31 (b) *Except as provided in subdivision (a) of Section 374, no*  
32 *local publicly owned electric utility or other governmental entity*  
33 *shall provide partial or full electric service to a retail customer of*  
34 *an electrical corporation unless the customer of that electrical*  
35 *corporation first confirms in writing an obligation to pay, through*  
36 *tariff or otherwise, to the electrical corporation currently*  
37 *providing electric service, a nonbypassable generation-related*  
38 *transition charge established by the regulatory body for that*  
39 *electrical corporation. The charge shall be paid directly to the*

1 *electrical corporation providing electricity in the service area in*  
2 *which the consumer is located.*

3 *(c) No local publicly owned electric utility or electrical*  
4 *corporation shall sell electric power to the retail customers of*  
5 *another local publicly owned electric utility or electrical*  
6 *corporation unless the regulatory body of the first utility has*  
7 *agreed to let the second utility make sales of electric power to the*  
8 *retail customers of the first utility after making a finding that the*  
9 *remaining retail customers of the first utility will not be harmed by*  
10 *the transaction.*

11 *(d) This section shall become operative 18 months after the*  
12 *effective date of the act adding this section.*

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